

BEFORE THE TIMARU DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Timaru District Plan Hearing E

**STATEMENT OF EVIDENCE OF NATHAN HOLE ON BEHALF OF
ROONEY GROUP LIMITED AND OTHERS**

Dated 23 January 2025

MAY IT PLEASE THE HEARING PANEL:

1. My full name is Nathan Henry Hole. I am employed by Rooney Group Limited (**RGL**) as Senior Advisor – Environmental Policy & Projects.
2. I hold the qualification of Bachelor of Science (Environmental Science) from Lincoln University.
3. I have over 16 years' experience working as a resource management planner for both district and regional councils, including 9 years as Planning and Regulations Manager at Mackenzie District Council, and Team Leader – Consents and Compliance at Timaru District Council from November 2018 to August 2021. I have been employed by RGL in my current role since August 2021.
4. I am providing this evidence in my capacity as an employee of RGL, not as an independent expert, although my evidence represents my professional view and is within my area of expertise.
5. I am authorised to provide this evidence on behalf of Rooney Group Limited, Rooney Holdings Limited, Rooney Earthmoving Limited, Rooney Farms Limited, Timaru Developments Limited and Mr GJH Rooney (**Rooney Group**).
6. While I am an employee of RGL, I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and agree to comply with it. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SCOPE OF EVIDENCE

7. In relation to the matters being considered by Hearing E, Rooney Group made submissions in relation to all the provisions being heard. The scope of my evidence is limited to the submissions made in relation to the Energy and Infrastructure, Transport, and Subdivision and Development Areas.
8. No evidence is provided in relation to submissions made on Sites and Areas of Significance to Māori (**SASM**) or Historic Heritage and Notable Trees of the PDP. In relation to Rooney Group's other submissions that are not covered in this evidence, no further evidence will be

provided on these matters. However the points made in those submissions remain relevant and reflect the position of Rooney Group on those points, for the panel's consideration.

ENERGY AND INFRASTRUCTURE

9. Rooney Group's submissions on energy and infrastructure seek that the PDP is made more enabling for the establishment of larger scale solar generation on buildings. In particular, the establishment of new solar generation should be provided for without the requirement for resource consent.
10. As an example, the land owned by Rooney Holdings Limited (**RHL**) at Washdyke contains 20 large scale industrial bulk storage sheds of varying sizes (the most recent, Shed 20 being 8,500m²). All have been constructed north facing specifically to enable future solar generation.
11. While I acknowledge the officer's comment at page 50 of the section 42A report that policy E1 of the National Policy Statement for Renewable Electricity Generation 2011 (**NPS-REG**) requires the District Plan to have a policy and rule framework to address solar generation, I consider that the PDP could better achieve the objective of the NPS-REG by providing for the establishment of large scale solar generation utilising existing buildings in the General Industrial Zone (**GIZ**) as a permitted activity.
12. Such activity would not have adverse effects in this zone, particularly given in the context of existing uses and structures that are by nature industrial. Solar generation on building roofs is completely consistent with the purpose and function of industrial zoning.
13. While solar technology is evolving, the method of attaching panels to building roofs remains largely unchanged. Rooney Group's submission is seeking a permitted activity rule in relation to using existing buildings, not free-standing land based solar generation that may have potential adverse environmental effects requiring further assessment through a resource consent process.
14. A permitted activity rule providing for the establishment of large-scale solar generation on existing buildings in the GIZ would provide better regulatory support to landowners looking to implement this activity without requiring a fully discretionary resource consent.

TRANSPORT

TRAN-R10

15. Rooney Group made a further submission opposing Timaru District Council's (**TDC**) submission on TRAN-R10 High trip generation activities. TDC seeks to add a matter of discretion that would enable the council to levy a financial contribution, and references APP7 – Financial Contribution.
16. TRAN-R10 applies to any use or development which generates vehicle trips that meet or exceed the thresholds in TRAN-S20. However, TRAN-S20 does not necessarily specify vehicle trips (movements) for a use or development. Rather, it predominantly details activities described in Table 21 specifying criteria such as floor area, number of allotments, and number of persons as thresholds to determine whether or not a basic or full integrated traffic assessment (**ITA**) is required.
17. The ITA would then be relied upon to determine whether or not the use or development would result in an increase of heavy vehicle movements, and whether that increase would result in adverse effects on the road network.
18. The change sought by TDC will result in new developments being penalised where heavy vehicle movements arise from the activity, compared to existing activities. This has the potential to restrict new development or activities establishing in the district.
19. This inhibiting effect would have negative consequences for economic growth, and would potentially suppress innovation, and reduce resilience through increasing the costs of diversification. Rooney Group consider that Council's PDP should be designed to support rather than inhibit land use changes that provide a platform for the District's growth.

SCHED1 – Schedule of Roading Hierarchy

20. Rooney Group does not oppose the officer's recommendation of Road 5 being classified as a Principal Road but remains concerned regarding the provisions in DEV3 – Washdyke Development Area provisions relating to Road 5. This point is addressed more specifically later in my evidence.
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SUBDIVISION

SUB-P7 Esplanade reserves and strips

21. Rooney Group acknowledges the public access provisions in section 6(d) of the Resource Management Act 1991 (**RMA**), but this is not an absolute and must be considered in the context of managing the potential for adverse effects arising from public access. It must be clearly acknowledged that public access is not appropriate in all circumstances.
22. The creation of esplanade reserves or strips providing for public access can result in adverse effects on landowners, such as poaching, or dogs off lead being able to enter adjoining properties. Not all stock classes are compatible with unfamiliar humans or dogs at certain times of the year, or various stages of their development. Deer are a good example of this. The creation of an esplanade reserve or strip may result in an adjoining property owner not being able to use their land as they had previously, or needing to upgrade fences which in itself may not be practicable depending on whether the land is susceptible to flooding.
23. SUB-P7.3 provides limited scope for an esplanade reserve or strip to be waived, but this does not provide for consideration of a waiver where adverse effects may result from the creation of the esplanade provision. Rooney Group seeks an amendment to the exclusions in SUB-P7.3 to recognise that, where an incompatibility issue will arise with adjoining land use such as threats to stock or an inability to farm or utilise private land, the requirement for an esplanade reserve or strip may be waived.
24. SUB-P7.3 should also provide for the requirement for esplanade reserves or strips to be waived for boundary adjustment subdivisions. This is provided for in other district plans, and is appropriate here. The Waitaki District Plan¹ and Draft Waitaki District Plan² provide clear exemptions from requiring the creation of an esplanade provision for a boundary adjustment subdivision. This should also be clarified as an exemption under SUB-S8 Esplanade reserves and strips. I have attached a copy of these provisions from the Waitaki District Plan to my evidence as **Attachments 1 and 2** for the panel's information.

¹ Waitaki District Plan – Rule 14.3.1.4

² Draft Waitaki District Plan – SUB-P9

SUB-R1 Boundary adjustment

25. A boundary adjustment is a simple subdivision that is often used as a means for landowners to increase or decrease their land holding by agreement with adjoining landowners by adjusting the boundary between existing allotments. This activity does not create any additional records of title.
26. Controlled activity status is proposed for boundary subdivisions under SUB-R1 subject to complying with the applicable standards. Rooney Group has suggested permitted activity status for such subdivisions, and in its submissions identified the Westland District Plan³ as an example where such a rule applies.
27. The Westland District Plan has been operative since 2002, and a similar replacement rule is proposed in the West Coast combined Proposed Te Tai o Poutini Plan⁴ to apply across all three West Coast districts within the Plan's General Residential Zone and General Industrial Zone. I have attached both of these to my evidence as **Attachments 3 and 4** for the panel's information. I previously worked for a survey firm on the West Coast and have been involved in permitted activity boundary adjustment subdivisions under the Westland District Plan.
28. An RMA section 223 and section 224 certificate is requested by the subdivider (usually through their surveyor). The council through its section 223 approval is able to check compliance with the district plan rule and any applicable standards. Once the section 223 and 224 certificates are issued, the subdivider is able to submit these to Land Information New Zealand (**LINZ**) in the usual way to enable the survey plan to deposit and new records of title to issue for the boundary adjustment subdivision.
29. Whilst a permitted activity rule for subdivision is uncommon, in my experience this provides for a very efficient, more timely and less expensive process for a landowner to undertake a simple boundary adjustment subdivision.

SUB-S8 Esplanade reserves and strips

30. As discussed in relation to SUB-P7, if an esplanade provision is not required in relation to a boundary adjustment subdivision, this should be made clear by amending SUB-S8.

³ Westland District Plan 2002 – Rule 7.3.1

⁴ Proposed Te Tai o Poutini Plan – Rule SUB-R1

31. Rooney Group is concerned that a proposed boundary adjustment subdivision where the affected boundaries (more noticeably on a rural property) may be some distance from any waterbody identified in SCHED12 – Schedule of esplanade provisions, yet still be part of the same allotment, would be subject to the esplanade provisions of SUB-S8 as currently proposed.
32. The concern is that the current requirement will result in a landowner not proceeding with a boundary adjustment subdivision, which may have a detrimental effect on the primary production of the area, or that the use of the affected boundary will be compromised as discussed above in relation to SUB-P7. Both of these circumstances may lead to adverse effects that may not have arisen if the esplanade provision had not been required.
33. SUB-S8 as drafted will result in Council acquiring land for esplanade reserves or strips where a proposed boundary adjustment subdivision has no consequential effect on the waterbody boundary.

DEVELOPMENT AREAS

DEV3 – Washdyke industrial development area plan

34. The majority of the land on the west side of Meadows Road is owned by RHL. The only land not owned by RHL on the west side of Meadows Road is at the very south and north within the block between Seadown and Meadows Road (Southern Packers Limited to the south and 146 Seadown Road to the north).
35. Road 5 is proposed to be constructed on largely undeveloped land owned by RHL on a property that comprises 12.54 hectares (Lot 1 DP 911). As detailed in Mr Willis' officer's report at page 201 in relation to Transport, if constructed, Road 5 will become a continuation of Seadown Road, connecting to Meadows Road.
36. Rooney Group has submitted opposing DEV3-R1 and DEV3 standards S1 to S3 principally on the basis of the enactment of the standards in relation to the rule.
37. Road 5 is a new road that would connect Seadown Road to Meadows Road within the General Industrial Zone (**GIZ**), resulting in the closure of the current Seadown Road rail crossing north of the GIZ and a new rail crossing constructed as part of Road 5.

38. Rooney Group will not benefit from Road 5 as the RHL land has contiguous frontage to both Seadown and Meadows roads, yet DEV3-R1 requires the landowner to implement the roading standard (DEV3-S1) at the time of land use, subdivision or development. While there is no direction in DEV3-S1 to indicate that there will be any cost sharing based on public/private benefit, DEV3-S5 – Vesting of road services and infrastructure, contains Note 1 stating; *“The actual cost of road, utility services and walkway/cycleway construction will be apportioned between the developer and Council, with that apportionment to be determined on the basis of the percentage of public versus private benefit.”*
39. Note 1 to DEV3-S5 largely alleviates Rooney Group’s concerns, although DEV3-S1 states that it is the developer’s responsibility to design and construct the portion of road contained within their land, and to design and construct these roads in general accordance with the Transport Chapter. It is not clear whether the cost sharing apportionment of the vested infrastructure applies to design as well. Rooney Group considers that the proposed apportionment of constructure costs should be clarified by amending Note 1 to state “...design and construction...”. Such an amendment to DEV3-S5 would also address the same issue in relation to other types of vested infrastructure.
40. Rooney Group is in the unusual position of owning all the undeveloped land within DEV3 between Seadown and Meadows roads being Lot 1 DP 911 comprising 12.54 hectares. In relation to Road 5, Rooney Group is concerned that any land use or development north of Bronsnan Transport Limited (**BTL**), such as an extension of the BTL site, would require the design and construction of Road 5. Yet the location proposed for Road 5 is approximately 300 metres north of BTL. This would not be an equitable outcome if that was the case.
41. Usually when a developer constructs new infrastructure associated with a site development, the assets will vest to council as they are an integral part of the overall development being undertaken, such as roads and reticulated services associated with subdivision.
42. The RHL land within Lot 1 DP 911 of DEV3 is different and has the potential for significant further development without there being a need (if at all) for subdivision or Road 5 to be constructed. Without more specific guidance within DEV3 to specify the trigger for the design and construction of Road 5, an outcome may be that future development of Lot 1 DP 911 is delayed.

43. It is not sufficient to simply leave the issue for the negotiation between TDC and the developer when the drafting of the DEV3-S1 states *"At any time of land use, subdivision or development..."* implying design and construction of Road will occur at the first occurrence.
44. Rooney Group considers that an appropriate threshold for the design and construction of Road 5 by the developer would be at the time development occurs on Lot 1 DP 911 that required frontage, or would adjoin Road 5. DEV3-S1 could be amended to include such wording.

N H Hole

23 January 2025

Rooney Group Limited

community activity, or visitor accommodation, where the value of the construction, erection or alteration is in excess of \$200,000, in respect of:

- a. financial contributions to the provision of services and/or the provision of land, cash and/or facilities for open space and recreation; and/or
- b. financial contributions to the provision of cash for the maintenance of open space and recreation areas; and/or
- c. on sites located adjoining the bank of any river or the margin of any lake, to which Section 230(4) of the Act applies, financial contribution to the provision of esplanade reserves and strips and easements for access to waterbodies.

Note: *This rule shall not apply to any activity associated with a utility as defined in Chapter 1 Part III of the Plan.*

14.3 SUBDIVISION ACTIVITIES

14.3.1 GENERAL PROVISIONS

The following provisions may apply, as appropriate or applicable, to all forms of subdivision of land. Refer to Rule 14.5 for Financial Contributions on subdivision.

1. Relevant Sections of the Act

All applications are subject to Part VI and X of the Act, with particular reference to Sections 104, 106, 108, 220 and 230-237 of the Act

2. Code of Practice for Subdivisions

The Council has adopted a Code of Practice for Urban Land Subdivision (referred to as the Code of Practice) based on NZS 4404 1981. This Code is referred to in the assessment matters for resource consents, and relates to **detailed** engineering requirements. The Code of Practice is not a part of the District Plan.

3. Consents Heard Together

Any land use consent application arising from non-compliance with rules in this Plan as a result of a proposed subdivision shall be considered jointly with the subdivision consent application.

4. Esplanade Provision

Exemptions from Provision of Esplanade Reserves or Esplanade Strips

a. Esplanade Reserves or Esplanade Strips not Required

In the Rural G and S Zones, where a proposed lot, including a balance lot, in any subdivision is to be less than 4 hectares in area, along the bank of any river to which Section 230(4) of the Act applies, then Section 230 of the Act (requirement for esplanade reserves or

esplanade strips) shall not apply to that lot or balance lot in the subdivision consent; except for the margins of the following rivers:

- Pleasant River;
- Shag River;
- Waikouaiti River
- Waianakarua River;
- Kakanui River;
- Maerewhenua River;
- Waitaki River;
- Ahuriri River;
- Ohau River.

b. Minor Adjustments

Where a proposed subdivision is either:

- i. a boundary adjustment in accordance with Rule 14.4.1.a.i; or
- ii. a minor adjustment to an existing cross lease or unit title due to an alteration to the size of the lot by alterations to the building outline, the addition of an accessory building, or the relocation of accessory buildings;

then Section 230 of the Act shall not apply to the subdivision consent.

Note: Esplanade Reserves or Esplanade Strips

- All land in coastal marine areas shall vest in the Crown with the Minister of Conservation's Consent, or if consent not given, in the Council.
- Where an esplanade reserve is to vest in the Council, the adjoining bed of rivers shall vest in the Council.
- Where an esplanade strip is to be created, the adjoining bed of the river shall not be vested in the Council.

Regional Councils

- Attention is drawn to the need to obtain relevant consents from the Otago and/or Canterbury Regional Councils relating to matters such as water supply, stormwater and sewage disposal, earthworks, vegetation clearance and structures in the beds of waterbodies.

5. Road Designations, Utilities and Reserves

Where a proposed subdivision arises solely due to land being acquired or a lot being created for a road designation, utility or reserve, then Section 230 of the Act shall not apply to the subdivision consent.

14.3.2 PERMITTED SUBDIVISION ACTIVITIES

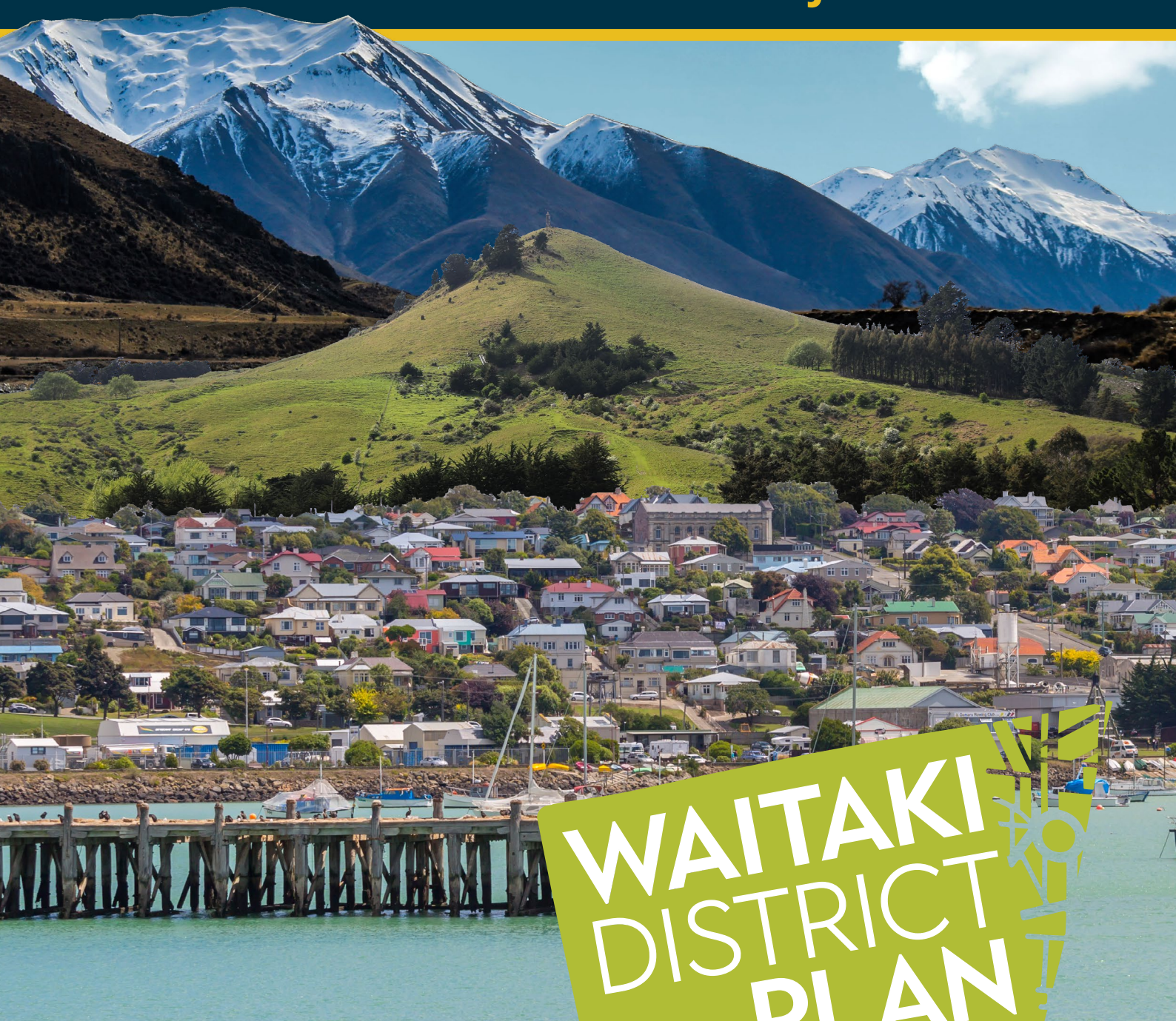
There shall be no Permitted Subdivision Activities.

14.3.3 CONTROLLED SUBDIVISION ACTIVITIES

Note: A subdivision consent need not be notified in accordance with Section 93 of the Act,

Draft District Plan

JUNE 2022



WAITAKI
DISTRICT
PLAN

REVIEW



Waitaki

DISTRICT COUNCIL

TE KAUNIHERA A ROHE O WAITAKI

SUB-P9 Esplanade reserves and strips – priority waterbodies and the coast

Require the creation of esplanade reserves or strips when subdividing land adjoining the priority waterbodies listed in PA-SCHED1 – Priority areas for public access and esplanade strips, and the coast and waterbodies over 3m in width, except where the subdivision is for a boundary adjustment or is for a network utility.

SUB-P10 Esplanade reserves and strips – other waterbodies

Consider the following matters when determining whether to require the creation of an esplanade reserve or strip for subdivision of land adjoining any other waterbody over 3m in width:

1. the level of contribution to enable public access, recreational use or the protection of conservation or takata whenua values; and
2. the appropriate mechanism to achieve 1.

SUB-P11 Reductions or waivers of esplanade reserves and strips

Only allow for provision of an esplanade strip, a reduction or waiver in the width, or provision of any required esplanade reserve or strip, where it can be demonstrated, if relevant, that:

1. safe public access and recreational use is already possible and can be maintained for the future; and
2. an esplanade strip would better provide for public and customary access, recreation, hazard management, stormwater management and ecological values; and
3. the ecological values and landscape features of the land adjoining the coast or other waterbody will not be adversely affected; and
4. any scheduled Historic Heritage Items in SCHED2 – Historic Heritage Items, or scheduled wāhi tūpuna in SCHED5 – Sites and Areas of Significance to Māori will not be adversely affected; and
5. the reduced width of the esplanade reserve or strip is sufficient to manage the risk of adverse effects resulting from natural hazards, taking into account the likely long-term effects of climate change; and
6. a full width esplanade reserve or strip is not required to maintain the natural character and amenity of the Coastal Environment; and
7. a reduced width in certain locations is offset by an increase in width in other locations or areas which would result in a positive public benefit, in terms of public and customary access, recreation, hazard management, stormwater management and ecological values.

SUB-P12 Subdivision Design

Ensure that subdivision is designed and located to:

1. maximise accessibility and connectivity with the surrounding community through walkways, cycleways and an interconnected transport network; and
2. reflect and respond to physical site characteristics, constraints and opportunities; and



for the wild



at heart

DISTRICT PLAN

OPERATIVE: 1 June 2002

7.3 ACTIVITIES

7.3.1 Permitted Activities

Any subdivision as follows:

- the number of titles remain the same as prior to the subdivision (esplanade reserves shall not be counted); and
- any existing buildings comply with the District Plan requirements; and
- no new roading or access points are required; and
- no new Council services are required.

Any new subdivision which is needed solely for a public work network utility which is permitted by 6.2 or approved as a result of a resource consent.

7.3.2 Controlled Activities

Any subdivision which complies with the rules for controlled activities in Table 7.1 and, where it fronts onto a state highway, complies with the rules for access to State Highways in 8.9.

Any subdivision in the area subject to the Franz Alpine Resort Outline Development Plan as set out in Part 5.4A shall:

- Be supplied with a fully reticulated comprehensive sewage treatment and disposal system designed by an appropriately qualified engineer and complying with WDC Engineering Standards, such system having capacity to service the maximum amount of development permitted in the area subject to the Franz Alpine Resort Outline Development Plan as set out in Part 5.4A.
- Be supplied with a fully reticulated comprehensive water supply complying with NZ Drinking Water Standards, such system having capacity to service the maximum amount of development permitted in the area subject to the Franz Alpine Resort Outline Development Plan as set out in Part 5.4A.



Te Tai o Poutini PLAN

A combined district plan for the West Coast



Proposed Plan

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	accordance with an approved land use consent or building consent.
SUB - P9	<p>To require esplanade reserves or esplanade strips for allotments of less than 4 ha to enable public access, reduce natural hazard risk, and contribute to the protection of natural character and biodiversity values, except that the width of the esplanade reserve or strip may be varied from 20 metres or waived if:</p> <ol style="list-style-type: none"> The natural values warrant a wider or narrower esplanade strip or esplanade reserve; or Topography, or the siting of any building or other feature, renders the 20-metre width inadequate or excessive; or The protection of Sites and Areas of Significance to Māori or other taonga requires an esplanade reserve or esplanade strip of greater or lesser width than 20 metres; or The protection or enhancement of biodiversity values or water quality requires an esplanade reserve or esplanade strip of greater or lesser than 20 metres; or The land is within a natural hazard area of where there is an identified risk from one or more natural hazards (such as coastal erosion).

It is also important to refer to the relevant policies for the particular zone and any overlays in which the subdivision occurs.

Subdivision Rules

Note: There may be a number of Plan provisions that apply to an activity, building, structure and site. In some cases, consent may be required under rules in this Chapter as well as rules in other Chapters in the Plan. In those cases, unless otherwise specifically stated in a rule, consent is required under each of those identified rules. Details of the steps Plan users should take to determine the status of an activity are provided in General Approach.

Permitted Activities

SUB - R1	General Residential Zone and General Rural Zone - Boundary adjustments	
Activity Status Permitted Where: 1. The boundary adjustment does not alter: a. The permitted activity status of any existing permitted activities occurring on the allotments and/or the ability of an existing permitted activity to continue to comply as a permitted activity under the rules and standards in this Plan; b. The extent or degree to which any consented or otherwise lawfully established activity occurring on the	Activity status where compliance not achieved: Controlled	

<p>allotments does not comply with a rule or standard in this Plan; and</p> <p>c. The ability of an existing permitted activity (including on adjacent lots) to continue to comply with the Plan.</p> <p>2. No new roading or access points are required;</p> <p>3. All existing vehicle access points comply with the requirements of Rule TRN - R1;</p> <p>4. No new Council services are required; and</p> <p>5. In the GRUZ - General Rural Zone the boundary adjustment does not result in potential additional residential units as a permitted activity.</p>	
SUB - R2	All Zones - Subdivision for a Network Utility or Critical Infrastructure
<p>Activity Status Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> 1. Any new lot created is solely for a network utility or critical infrastructure which is either a Permitted Activity under the Energy Chapter, Infrastructure Chapter or Transport Chapter or is approved as a result of a land use consent; 2. Any existing buildings comply with the relevant zone Permitted Activity standards; 3. All existing vehicle access points comply with the requirements of Rule TRN - R1; 4. Where the site is less than 4ha adjacent to a river >3m wide or the coast, the provision of an esplanade reserve or strip of 20m; 5. No new roading or access points are required; and 6. No new Council services are required. 	<p>Activity status where compliance not achieved:</p> <p>Controlled</p>
Controlled Activities	
SUB - R3	All Zones and All Overlays - Boundary Adjustments
<p>Activity Status Controlled</p> <p>Where:</p> <ol style="list-style-type: none"> 1. These are not Permitted Activities under Rule SUB - R1; 2. All Subdivision Standards are complied with; and 3. The existing or proposed buildings must: <ol style="list-style-type: none"> a. Comply with all permitted activity standards relevant to the zone and any overlays and a building consent has been issued for any proposed buildings; or b. Be subject to an approved resource consent for any non-compliances; or c. Where there is an existing building that does not comply with the current district plan, the subdivision must not increase the extent to which the existing building fails to 	<p>Activity status where compliance not achieved: Discretionary where Standard 2 is not complied with.</p> <p>Refer relevant zone and overlay subdivision rules where not compliant with Standard 3.</p>